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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,282	02/01/2002	Florian Fischer	1143-II-21.377	2050
7590 05/04/2004			EXAMINER	
ROBERT W. BECKER & ASSOCIATES			KNABLE, GEOFFREY L	
Suite B			ART UNIT	
707 Highway 66 East			PAPER NUMBER	
Tijeras, NM 87059			1733	

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

J.C.

Office Action Summary

Application No.

10/066,282

Applicant(s)

FISCHER, FLORIAN

Examiner

Geoffrey L. Knable

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 14-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

New claim 14 references the height for support of a "next-to-be fed tread strip" - there however is not seen to be any original disclosure or reference to the height of a "next-to-be fed tread strip" and as such, it is submitted that this was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, i.e. it is considered to be new matter.

New claim 15, in addition to not being understood (to be addressed below), is not considered to be described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, i.e. it is considered to be new matter. In particular, claim 15 defines specific requirements for a "support leg" that seem to conflict with the original description of the "support leg" in the original disclosure - note that the support leg is element "32" in the original disclosure. Further, the reference to a specific connection being "intermediate the first connection and the carcass" has no explicit or implicit basis in the original disclosure. Note that the original disclosure does not appear to describe any specific location for the connection of the lifting element other than what is shown in the figures and it is not seen that the figures would describe or

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support the presently described relation - in other words, even if the new language is inclusive of what is depicted in the figures, note that the new language describes the invention in a manner that is broader than the original figures and no explanation has been provided as to why the ordinary artisan would have understood the figures as reasonably conveying to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the now claimed invention.

New claim 18, in addition to also not being understood (to be addressed below), is not considered to be described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, i.e. it is considered to be new matter. First, as with claim 15, the description of the "support leg" is inconsistent with that term as defined in the original disclosure (referencing support leg "32"). Further, this claim defines various relative spacings and "extents" whereas it is not seen where the original disclosure describes or characterizes the invention in terms of such spacings and extents - as such, this is not considered to be described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention, i.e. it is considered to be new matter.

2. Claims 15, 16 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

New claims 15 and 18 reference a "support leg" - the original disclosure indicates that the support leg is the element "32" - if this is what is being described in new claims 15 and 18, the requirements of these claims cannot be interpreted in any logical manner consistent with the original disclosure and therefore are entirely indefinite and confusing. Further, claim 18 is entirely indefinite and confusing even if one were to read the support leg as elements 24/26 - note particularly for example lines 3-6 are not understood in defining an "extent..." being at a "spacing..." This claim is particularly difficult to interpret given the lack of any original description of these requirements.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

The amendment to claim 1 as well as new claim 10 define the invention using terminology that has no explicit basis in the specification. Although it is considered that these requirements are reasonably supported by the original disclosure, and thus are not considered to be new matter, they still must have antecedent in the specification for the new claim requirements.

New claims 14-18 also define the invention in a manner that lacks antecedent in the specification (but these claims also are considered to include new matter as noted above). Note however that even if the new matter rejections are overcome, antecedent for the claim terminology in the specification must still be provided.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. Claims 1-3, 5, 7, 9, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Leguillon (US 2,346,439).

Leguillon is applied as in the last office action. As to the new requirement of claim 1 that the tread strip be fed to the upper half of the carcass, Leguillon clearly applies the tread to the upper half of the carcass. As to new claim 9, the adjustable pivot for swing frame 17 (e.g. page 2, col. 2, lines 69+) will provide a capability for being raised into tangential contact as well as lowered as claimed. As to new claim 10, the reference provides adjustment capability for the feed device to be inclined upward by varying the lengths of the links 17/18 (e.g. page 2, col. 1, lines 10-19) - such an upward incline would provide an apparatus in which the rearward end of the feed device can be lower than the top of the carcass as claimed. As to new claim 11, the apparatus includes means to effect the swing movement from (or along) the horizontal by underlying linkage (17, 18, etc.)

6. Claims 4, 6, 8, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leguillon (US 2,346,439).

Leguillon is applied as in the last office action, new claims 12 and 13 being essentially inclusive of requirements previously in claim 8, and as such these claims are rejected for the same reasons of record with respect to claim 8.

7. Claims 14 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller (US 2,473,067 - previously cited but not applied).

Miller discloses a tire building machine including a carcass support (36) on which a carcass is rotatably mounted and a tread strip feed device via which a tread strip is

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fed onto the carcass, the tread strip feed device including a linear path support assembly (44 in figs. 3-4) and a swing movement assembly (pivoting around "42"), the linear path support assembly for supporting thereon a tread strip in a substantially linear disposition and the linear path support assembly extending from a remote end thereof remote from the carcass to a proximate end thereof more closely adjacent the carcass, and the swing movement assembly (51-54) for selectively raising and lowering the tread strip feed device between a feed position and a non-feed position, whereupon, when the swing movement assembly has raised the tread strip feed device into the feed position, the linear path support assembly supports the tread strip at a tangential orientation relative to the carcass for the subsequent feeding of the tread strip onto the carcass in a tire building process and, when the swing movement assembly has lowered the tread strip feed device into the non-feed position, the linear path support assembly (44) can support a next-to-be fed tread strip at a smaller height than the height at which the next-to-be fed tread strip is supported when the swing movement assembly subsequently raises the tread strip feed device from its non-feed position to its feed position, and the linear path support assembly being movable relative to the balance of the tread strip feed device in a translatory movement (note movement along rollers 43 in fig. 4) to thereby move the proximate end of the linear path support assembly toward the carcass, whereupon the positioning of a tread strip at the tangential orientation relative to the carcass for the subsequent feeding of the tread strip onto the carcass is effected by a combination of the translatory movement of the proximate end of the linear path support assembly toward the carcass and the movement of the tread strip feed device

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from its non-feed position into its feed position by the swing movement assembly. Thus this reference satisfies claim 14. As to claim 17, various parts of the apparatus can be termed guide rails such as pats 45/46 as well as the main part 40/41 - the claim provides no specificity for the structure or function of these rails and thus requires nothing more than this.

8. Claims 15, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (US 2,473,067 - previously cited but not applied) as applied above, and further in view of Vorih (US 5,221,407 - previously cited but not applied).

As already noted, the requirements of claims 15 and 18 are somewhat difficult to interpret. In any event, Miller discloses a rearwardly hinged device (at 42 in fig. 4) with a lifting device at the forward end of the device. It would not appear that this is "intermediate" as claimed. It however is known to be suitable and effective to lift a very similarly constructed tread application conveyor using a lifting device that is positioned intermediate the pivot and carcass rather than underlying the drum - note fig. 8 of Vorih. Provision of such would have therefore been an obvious alternative. Vorih also clearly would motivate the artisan to include a piston cylinder as claimed (claim 16) to effect the lifting, the advantages over manual lifting being readily apparent. Claim 18 is very hard to interpret. In any event, insofar as Miller provides that the conveyor (44) can clearly translate to a variety of positions on the rollers, it would seem that the claimed spacings /extents would have been suggested or obvious capabilities of the reference apparatus.

9. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vorih (US 5,221,407 - previously cited but not applied).

Vorih discloses a tire building machine including a carcass support (6) on which a carcass is rotatably mounted and a tread strip feed device via which a tread strip is fed onto the carcass, the tread strip feed device including a linear path support assembly (17) and a swing movement assembly (25), the linear path support assembly for supporting thereon a tread strip in a substantially linear disposition and the linear path support assembly extending from a remote end thereof remote from the carcass to a proximate end thereof more closely adjacent the carcass, and the swing movement assembly (25) for selectively raising and lowering the tread strip feed device between a feed position and a non-feed position, whereupon, when the swing movement assembly has raised the tread strip feed device into the feed position (esp. fig. 8), the linear path support assembly supports the tread strip at a tangential orientation relative to the carcass for the subsequent feeding of the tread strip onto the carcass in a tire building process and, when the swing movement assembly has lowered the tread strip feed device into the non-feed position, the linear path support assembly (17) can support a next-to-be fed tread strip at a smaller height than the height at which the next-to-be fed tread strip is supported when the swing movement assembly subsequently raises the tread strip feed device from its non-feed position to its feed position. Further, this reference discloses in the figs. 1-2 embodiment providing the linear path support assembly to be movable relative to the balance of the tread strip feed device in a translatory movement (note col. 3, lines 3+) to thereby move the proximate end of the linear path support assembly toward the carcass, whereupon the positioning of a tread strip at the tangential orientation relative to the carcass for the subsequent feeding of

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the tread strip onto the carcass is effected by a combination of the translatory movement of the proximate end of the linear path support assembly toward the carcass and the movement of the tread strip feed device from its non-feed position into its feed position by the swing movement assembly. Thus this reference teaches (1) a translating conveyor in figs. 1-2, but this conveyor is lowered rather than raised to bring the tread to the tangential position, and (2) a conveyor that is raised to bring the tread to the tangential feed position (fig. 8), but this conveyor does not appear to be translatable. It however is considered that the ordinary artisan would have found it to have been an obvious alternative construction of the Vorih apparatus to provide the figs. 1-2 embodiment such that the conveyor is raised rather than lowered to position the tread when this fig. 1-2 embodiment is viewed in light of the suitable and effective alternative fig. 8 embodiment. Or alternatively, it would have been obvious to provide the fig. 8 embodiment with a conveyor that can translate in light of the figs. 1-2 embodiment.

As to claim 15, as already noted, this claim is somewhat difficult to interpret. In any event, Vorih discloses a rearwardly hinged device with a lifting device at the forward end of the device and positioned intermediate the pivot and carcass. It is not clear that this claim requires anything more than this. Vorih also clearly suggests a piston cylinder as claimed (claim 16) to effect the lifting as well as a translating conveyor that would or certainly should include guide rails (claim 17). Claim 18 is very hard to interpret. In any event, insofar as Vorih provides that the conveyor (17) can clearly translate to a variety of positions, it would seem that the claimed spacings /extents would have been suggested or obvious capabilities of the reference apparatus.

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10. Applicant's arguments filed 2-5-2004 have been fully considered but they are not persuasive.

The rejection over Barefoot has been withdrawn in light of the amendments to the claims. The rejection over Leguillon will however be maintained. Note again that the adjustable pivot for swing frame 17 (e.g. page 2, col. 2, lines 69+) will provide a *capability* for being raised into tangential orientation as claimed. Whether or not this actually is adjusted during a single feeding/transport operation would seem to relate to features of the method but does not define or require a different structure, the present claims being directed to the apparatus.

As to the new claims, note the new grounds of rejection necessitated by the presentation of these new claims.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 571-272-1220. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Geoffrey L. Knable
Primary Examiner
Art Unit 1733

G. Knable
May 2, 2004